

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
UTILITIES COMPANY FOR A CERTIFICATE OF)	CASE NO.
PUBLIC CONVENIENCE AND NECESSITY FOR)	2022-00066
THE CONSTRUCTION OF TRANSMISSION)	
FACILITIES IN HARDIN COUNTY, KENTUCKY)	

ORDER

On April 12, 2022, Stark House Farm, LLC (Stark House) filed a motion requesting to intervene in this proceeding. As a basis for its motion, Stark House stated that the company owns five parcels of land that will be affected by Kentucky Utilities Company's (KU) proposed transmission line routes. Stark House claimed that KU already has an easement on a portion of its property and the company believes that alternative routes exist to utilize existing easements. KU filed a response on April 15, 2022, to two petitions for intervention. At the conclusion of the response, KU stated that it objected to all untimely requests¹ currently filed and filed in the future.²

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate

¹ All requests made after April 8, 2022, are untimely because the Order issued April 6, 2022, established a procedural deadline of April 8, 2022, for petitions for intervention.

² KU's Response to the Pile and Chesser Petitions to Intervene (filed Apr. 15, 2022) at 4.

Intervention (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.³

The statutory standard for permissive intervention, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”⁴

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11) requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In cases involving an application for a Certificate of Public Convenience and Necessity (CPCN) to construct an electric transmission line, the Commission also considers KRS 278.020(9) which includes a person over whose property a proposed transmission line will cross as an “interested person” who may request intervention.

DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Stark House failed to file a timely petition for intervention. In the motion for leave to intervene, Stark House stated that it received a notice from KU on March 11, 2022 stating that the company owns property that will be affected by the

³ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

⁴ *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

proposed transmission line route and the company had a right to intervene.⁵ KU provided Notice of Intent to File an Application for a Certificate of Public Necessity and Convenience with the Commission on March 1, 2022. The application was filed on March 31, 2022. The Commission issued an Order setting forth the procedural schedule on April 6, 2022. In accordance with that Order, the deadline for requests for intervention was April 8, 2022. Stark House had 28 days from the date it received notice from KU until the request for intervention deadline to file a request. No evidence of grounds to deviate from the procedural schedule has been established.

On April 15, 2022, KU filed a response objecting to the grant of intervention for all filed untimely responses currently filed and all subsequent request for intervention filings from that date forward.⁶

Stark House will have an opportunity to participate in this proceeding even though it is not granted intervenor status. Stark House can review all public documents filed in this case and monitor the proceedings via the Commission's website <https://psc.ky.gov/Case/ViewCaseFilings/2022-00066>. In addition, Stark House may file comments as frequently as it chooses, and those comments will be entered into the record of this case.

IT IS THEREFORE ORDERED that the motion to intervene filed by Stark House is denied.

⁵ Motion for Leave to Intervene and Request for Public Hearing (filed Apr. 13, 2022) at 1.

⁶ KU's Response to the Pile and Chesser Petitions to Intervene (filed Apr. 15, 2022) at 4.

PUBLIC SERVICE COMMISSION



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